

Remarks/Arguments

The present amendment is submitted in an earnest effort to advance this case to issue without delay.

1. Applicant appreciates the Examiner's explanation with respect to requirement for election of species and notes that claims 1-7 and 9-19 have been acted upon and that only claim 8 stands withdrawn from consideration as being directed to a nonelected species.

Claim 8 has been retained in the case since generic claims are still present and will be allowable if generic claims are ultimately allowed. However, should no generic claim ultimately be allowable, applicant will be entitled to divide for the subject matter of claim 8.

2. Claims 6, 7, 9, 11-15 and 17 have been rejected under 35 USC 112, second paragraph, allegedly as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This rejection is respectfully traversed since applicant does not believe that the terms used are ambiguous or indistinct.

Claim 17, for example, depends from claim 16 which recites "a plurality of layers as defined in claim 10". Since the plurality of layers has been defined in claim 16, specifying the number of layers does not render the claim indefinite.

As to claims 6 and 9, the reference here is to "other high tensile strength ductile metal or alloy". The reference to "other" utilizes titanium, titanium alloy as the reference. Since there is a reference by which the ordinary skilled worker in the art can measure the high tensile strength metal or alloy, that expression is not indefinite either.

Claims 9 and 11-15 refer to a high tensile strength fiber which in each case is defined by a fiber from a specific group. Since the term is a term of art and the particular fibers have been named, there is nothing indefinite there either.

Be that as it may, claims 17, 6, 9 and 12 have all been amended to eliminate the objectionable term in any event. Withdrawal of the rejection under 35 USC 112, second paragraph, is requested.

3. Claims 1, 6, 7, 10, 11 and 16-19 have been rejected under 35 USC 102(b) as anticipated by a reference identified by the Examiner as PARTIOT but which may be US patent 2,445,801 to PARTIOT. The PARTIOT reference, however, does not appear to disclose a woven ballistic fabric at all. Indeed, the structure 30 appears to be a wire mesh. The term "ballistic fabric" is a term of art as the Examiner should appreciate and the structure shown in PARTIOT does not utilize one at all. The PARTIOT reference, rather than disclosing an armor having a woven ballistic fabric, deals with a structure in the form of laminated sheet metal product (column 1, lines 44 ff) which precludes the shredding of a

projectile. PARTIOT does not have weft and warp yarn traversing any disk which has "edges thereof" which can shred a projectile.

Indeed, since the reference relates to electric resistance welding and not to a woven ballistic fabric armor at all, it would appear that PARTIOT is nonanalogous art, as defined In re Wood, 202 USPQ 171. It is neither directed to the same field nor does it attack the same problem as the invention.

The rejection of claims on HARPELL et al must also be withdrawn since the HARPELL reference relates to flexible composites having rigid isolated panels and no disks at crossover locations in the sense of the present claims. The HARPELL reference does teach disks held together by threads but does not present those disks in the manner in which the claims require to a projectile or retain the disks in the fabric as the claims require.

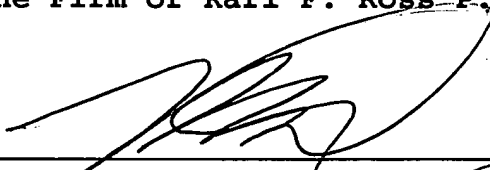
4. There is a rejection of claims on NISHIMURA et al with PARTIOT. NISHIMURA discloses a fiber material for reinforcing plastic and not as a ballistic fabric supporting metal disks at the crossover. Thus the rejection of claims 2, 3, 9 and 12 must fail as well.

In conclusion, therefore, applicant submits that all of the claims ought to be considered allowable.

Applicant does appreciate the Examiner's indication that claims 13-15 are allowable but notes that the remaining claims are as well.

5. There is enclosed a charge form for \$100 for one extra independent claim.

Respectfully submitted,
The Firm of Karl F. Ross P.C.



By: Herbert Dubno, Reg. No. 19,752
Attorney for Applicant

ef-

June 13, 2005

5676 Riverdale Avenue Box 900

Bronx, NY 10471-0900

Cust. No.: 535

Tel: (718) 884-6600

Fax: (718) 601-1099

Enclosure: PTO Form 2038 for \$100
(One extra independent claim
small entity)